



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

COPY MAILED

NOV 30 2009

OFFICE OF PETITIONS

In re Application of Hekstra et al.	:	
Application No. 10/501,424	:	Decision on Petition
Filing Date: July 13, 2004	:	
Attorney Docket No. NL 020034	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2009, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on September 28, 2007. The Office action set a three-month shortened statutory period for reply. Neither a reply nor a request for an extension of time was filed in response to the September 28, 2007 Office action. As a result, the application became abandoned on December 29, 2007. The Office mailed a Notice of Abandonment on April 10, 2008.

Papers filed April 28, 2008, revoked prior powers of attorney, gave power of attorney to the practitioners associated with Customer No. 65913, and changed the address of record to the address associated with Customer No. 65913.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), a reply to the September 28, 2007 Office action accompanies the petition.

As to item (2), petitioner has submitted the petition fee of \$1,620.

As to item (3), the petition states the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The petition is signed by Thomas Ham was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Ham may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Ham that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

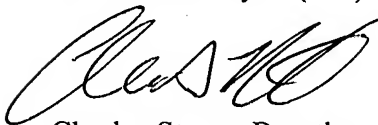
As to item (4), a terminal disclaimer is not necessary in the instant case.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 2621 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Thomas H. Ham
Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

¹ See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).